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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION

J. DOE 1, et al.,
 Individual and
 Representative Plaintiffs,
 v.
 GITHUB, INC., et al.,
 Defendants.

Case No. 4:22-cv-06823-JST
 Consolidated with Case No. 4:22-cv-07074-JST

**DECLARATION OF ANNETTE L.
 HURST IN SUPPORT OF DEFENDANTS
 GITHUB AND MICROSOFT'S LOCAL
 RULE 79-5(f) ADMINISTRATIVE
 MOTION TO CONSIDER WHETHER
 ANOTHER PARTY'S MATERIAL
 SHOULD BE SEALED**

Date: May 4, 2023
 Time: 2:00 p.m.
 Courtroom: 6, 2d Floor
 Judge: Hon. Jon S. Tigar

Complaint Filed: December 7, 2022

AND CONSOLIDATED ACTION

1 I, Annette L. Hurst, hereby declare:

2 1. I am an attorney at the law firm of Orrick, Herrington & Sutcliffe LLP, counsel of
3 record for Defendants GitHub, Inc. and Microsoft Corporation in this action. I am a member of
4 the California State Bar and am admitted to practice before this Court. I have personal
5 knowledge of the facts stated in this declaration unless otherwise stated, and if called to testify to
6 those facts, I could and would competently do so.

7 2. On Thursday, April 20, Plaintiffs filed their reply in support of their motion to
8 retain the AEO designation on Plaintiffs' names. In that reply, Plaintiffs asserted that the identity
9 of the recipient of certain emails was confidential. We had not previously understood that
10 Plaintiffs intended for the identity of the recipient to be confidential information because
11 Plaintiffs' motion to seal referenced only the identity of the senders as nonpublic information.
12 In particular, attached as **Exhibit 1** is a summary chart of Plaintiffs' prior public disclosures
13 concerning the emails at issue. Nevertheless, we are taking Plaintiffs' April 20 filing as a
14 designation of the recipient of the emails as CONFIDENTIAL information subject to protective
15 order, and accordingly we are taking steps to supply a redacted version of our public filings and
16 to seal the unredacted version of our prior filings containing the e-mail recipient identity
17 information.

18 3. Attached as **Exhibit 2** is a true and correct copy of Defendants GitHub and
19 Microsoft's Reply In Support of Their Motions to Dismiss Operative Complaint in Consolidated
20 Actions, with redactions of the information Plaintiffs assert should be under seal.

21 4. Attached as **Exhibit 3** is a true and correct copy of the Hurst Declaration in
22 Support of Defendants GitHub and Microsoft's Motions to Dismiss Operative Complaint in
23 Consolidated Actions, with redactions of the information Plaintiffs assert should be under seal.

24 5. Attached as **Exhibit 4** is a true and correct copy of Defendants GitHub and
25 Microsoft's Opposition to Plaintiffs' Motion to Maintain Confidentiality Designations for
26 Plaintiffs' True names, with redactions of the information Plaintiffs assert should be under seal.

27 6. The first time Plaintiffs' counsel notified me that they considered the identity of
28 the recipient of emails to be confidential information was in their public reply brief filed in

1 support of their Motion to Maintain Confidentiality Designations for Plaintiffs' True Names
2 Pursuant to Section 6.3 of the Stipulated Protective Order, filed on April 20. *See* ECF No. 75.
3 Plaintiffs did not raise the issue with me in correspondence or meet and confer prior to that filing,
4 even though Defendants GitHub and Microsoft's Reply in Support of Their Motions to Dismiss
5 filed two weeks prior on April 6 includes the same information. Additionally, in their brief,
6 Plaintiffs repeatedly state the name of the recipient of the emails. ECF No. 75 at 3-5. Plaintiffs
7 also submitted a declaration from Plaintiffs' counsel, further naming the recipient of the emails.
8 ECF No. 75-1. This would certainly seem to be a waiver of any confidentiality information they
9 once claimed they had. Nonetheless, in an abundance of caution given the allegations of
10 improper handling of confidential information, GitHub and Microsoft offer this Administrative
11 Motion to Seal.

12 I declare under penalty of perjury under the laws of the United States that the foregoing is
13 true and correct. Executed on this 24th day of April, 2023 in San Francisco, California.

14
15
16 By: /s/ Annette L. Hurst
ANNETTE L. HURST